IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 65039-M of 2006

DATE OF DECISION : 23.10.2006

Bhola singh and others

.... PETITIONERS

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. K.S. Ahluwalia, Advocate,
for the petitioners.

* * *

The petitioners, who are the accused in case FIR No. 92 dated 27.10.2003 registered at Police Station Jaurkian, under Sections 307/34 IPC, have filed this petition under Section 482 of the Code of Criminal Procedure for setting aside the order dated 28.9.2006, passed by Sessions Judge, Mansa, whereby the application filed by the petitioners for re-calling two prosecution witnesses, namely Roop Singh and Gurpiar Singh, for further cross-examination, has been dismissed by following the decision of the Supreme Court in ***Yakub Ismailbhai Patel*** v. ***State of Gujarat,*** 2004 (4) RCR (Criminal) 731 and a decision of the Madhya Pradesh High Court in ***Manghi alias Narmada*** v. ***State of M.P.,*** 2005 (4) RCR (Criminal) 739, while observing as under :-

> "... It was alleged that the aforesaid witnesses had deposed their separate affidavits on 6.11.2004 before the Notary and those affidavits were attached with the application under Section 311 of the Code of Criminal Procedure, for a prayer to recall those witnesses for further examination. The Hon'ble High Court rejected the prayer of the defence that all these witnesses were

examined and after cross-examination they were discharged and thereafter for one reason or another they have sworn the affidavit just contrary to the deposition made before the trial court, such witnesses cannot be recalled for re-examination and cross-examination on the basis of the affidavits.

After hearing counsel for the petitioners, I do not find any illegality in the impugned order.

Dismissed.

October 23, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**